Remarks

Claims 6 to 8, 14, 15, 23 to 25, 28 and 29 are amended. Claims 1 to 29 are pending in this application of which claims 1, 2, 3, 8, 9, 17 and 25 are in independent form.

On page 2, paragraph 1, of the action, the drawings were objected to because it was believed that the "diaphragm" and the "blocking means" are not shown. The diaphragm is identified by reference characters BL in FIG. 4 and is referred to, for example, on page 11, line 2, of the applicants' disclosure. The blocking means can be a light modulator LM and is in the drawings, for example, in FIG. 3. The light modulator LM is referred to on page 9, line 4, of the disclosure and the disclosure is here amended to incorporate the phrase "blocking means". Since both elements are shown in the drawings, a correction thereof should not be necessary.

The claims were objected to on page 2, paragraph 2, of the action and claims 6, 7, 14, 15, 23, 24, 28 and 29 are amended to remove the confusion and indefiniteness noted in the action. For example, claim 6 is amended to define the diaphragm as being an adjustable diaphragm and, in claim 7, the diaphragm is described as being exchangeable for another element having a different form and dimensions.

Claims 25 to 29 were rejected under 35 USC 112, first paragraph, because these claims fail to disclose how a stereoscopic image of an object could be generated in a microscope by simply having a microscope objective, illuminating

source and illuminating optics. Accordingly, claim 25 is amended herein to incorporate the additional feature and limitation of:

> "means for guiding the different images to corresponding ones of the eyes of an observer."

With this additional feature, claim 25 and therefore claims 26 to 29, should now satisfy the requirements of the statute.

Claim 8 is the only claim which was not rejected on the art of record so that this claim is amended herein to incorporate therein all the features and limitations of the claims from which it had depended. Claim 8 is also amended to correct the indefiniteness referred to in the action with respect to claim 6 from which it had depended. Accordingly, claim 8 should now be in condition for allowance.

Claims 1, 3, 9, 10, 16 and 17 to 19 were rejected under 35 USC 103(a) as being unpatentable over Takahashi et al (948). Also, claims 4 to 7, 11 to 15 and 20 to 24 were rejected as being unpatentable over Takahashi et al (948) in view of Takahashi (454). Claims 2, 9 and 10 were rejected under 35 USC 103(a) as being unpatentable over Takahashi et al (948) in view of Diepeveen et al. The following will show that these claims patentably distinguish the invention over these references.

The primary reference Takahashi et al (948) and the secondary reference Takahashi (454) are both directed to an endoscope and not a microscope. Accordingly, the devices of these references with respect to their configuration are clearly different from that of a microscope so that our person of ordinary skill would not consider these references in attempting

to arrive at the applicants' invention.

With respect to endoscopes, applicants call attention to the fact that because the endoscope is no microscope, special forms of the pupil must be used because no uniform illumination could be realized otherwise because of the strong off-axis rays. In this connection, reference can be made to FIG. 3 of Takahashi (454) which shows the abaxial light. Accordingly, the endoscope has a completely different task and operation than the invention which is directed to a microscope. Also, a rotating mirror is not comparable to a DMD mirror.

In view of the above, applicants submit that claims 1 to 7 and 9 to 24 patentably distinguish the invention over the above references applied thereagainst and should now be allowable.

Claims 25 to 29 were rejected under 35 USC 103(a) as being unpatentable over Lucke et al. The following will show that claims 25 to 29 patentably distinguish the invention over this reference.

Lucke et al discloses a classical stereomicroscope having two separate beam paths. Accordingly, it is not necessary to first generate a stereo impression utilizing blocking means as in the applicants' invention. Accordingly, our person of ordinary skill would not consider Lucke et al in an effort to arrive at the applicants' invention as set forth in claims 25 to 29.

Claims 1 to 24 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 10 of United States Patent 6,348,994 and claims 25 to 29 were rejected under this

doctrine as being unpatentable over claims 1, 8, 13 and 29 of United States 5,835,264.

The applicants respond to this rejection by submitting a terminal disclaimer in compliance with 37 CFR 1.321. The terminal disclaimer is submitted herewith under a separate transmittal letter and should overcome the above rejections by removing the two United States Patents 5,835,264 and 6,348,994 as references.

For the reasons advanced above, the claims, as amended herein, should now be allowable and reconsideration of the application is earnestly solicited.

Respectfully submitted,

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